

83-545

U.S. Supreme Court, U.S.
F. I. D.
SEP 24 1983
ALEXANDER L. STEVAS,
CLERK

Case No. _____

SUPREME COURT OF THE UNITED STATES

October Term, 1983

In Re: CYRIL E. SAGAN
Petitioner/Appellant

vs

U.S. SUPREME COURT
U.S. GOVERNMENT
Defendants/Appellees

**PETITION FOR WRIT OF CERTIORARI TO THE
UNITED STATES COURT OF APPEALS FOR THE
THIRD CIRCUIT**

PETITION

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QUESTIONS PRESENTED

1. Whether the ruling of the United States Supreme Court in Roe vs Wade is imperfect and/or unconstitutional.
2. Whether the ruling in the case of Roe vs Wade should be perfected or reversed.
3. Whether obligatory child support payments of male parents, as sustained by the lower courts, should be voided.
4. Whether the Petitioner and his family deserve compensation from the Government for injury related directly or indirectly to the imperfection of the Roe vs Wade decision.

DEFENDANTS

The defendants are:

1. Members of the United States Supreme Court, presided by Chief Justice Warren E. Burger.

2. United States Government through the Attorney General of the United States, William French Smith, and the Solicitor General of the United States, Rex E. Lee.

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Questions Presented

Defendants

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I. PRAYER

CYRIL E. SAGAN, petitioner acting Pro Se, petitions this court to issue a Writ of Certiorari since the lower federal court has evaded federal questions in a way that is in conflict with implicit interpretations of the decisions of this Court. The issues raised in this petition challenge this Court and for that reason the lower court is helpless to overrule the upper court. The petitioner requests a Writ of Certiorari so the highest court may review the merit or lack of merit in its actions.

To simply deny the writ through a determination that the petition appears audacious would be totally unfair and to determine that it is frivolous would be grossly unjust.

II. REPORT OF OPINION BELOW

This case was originally filed in the U.S. District Court for the Western District of Pennsylvania on October 4, 1982 as a first step to challenge the imperfection and unconstitutionality of the Roe vs Wade decision through a trial by jury and to seek damages resulting from the imperfection of Roe vs Wade. On December 17, 1982 a judge of this District Court granted a summary judgment to the defendants with the opinion that the action was frivolous. The petitioner filed an appeal to the U.S. Court of Appeals for the Third Circuit on January 12, 1983. This court affirmed the judgment of the district court on the 28th of June, 1983. A petition for writ of certiorari is being filed in an attempt to confront the Supreme Court on a matter which the two lower courts could not overrule.

III. JURISDICTION

Jurisdiction to grant writs of certiorari is a vested interest of this Court and may be extended to circumstances that are so exceptional that an immediate review is in the interest of justice (recognized for example in *Vingi v Read*, 68 R.I. 484, 29 A 2d 637, 639).

Jurisdiction also arises according to Article III, Section 2, Clause 1 :

"The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority...to controversies to which the United States shall be a party."

Jurisdiction arises in this Court's own ruling, which is being here questioned, of *Roe vs Wade* (410 US 113, 1 Ed 2nd 147, 93 S Ct 705).

IV. CONSTITUTIONAL PROVISIONS

1. Article I, Section 1
2. Article III, Section 2, Clause 1
3. Article IV, Section 2, Clause 1
4. Amendment X
5. Amendment XIV

V. STATEMENT OF THE CASE

1. The petitioner has followed the stepwise path to reach the Supreme Court in order to call attention to its errors and to seek perfection of its judgments. As a Pro Se litigant the petitioner requests this court to consider the merits of the argument that would perfect the ruling of Roe vs Wade or to reverse it and to seek damages resulting directly or indirectly from this ruling.

2. In Roe vs Wade this Court admittedly failed to consider the rights of fathers on the issue of abortion (See Appendix F). In Planned Parenthood vs Danforth it denied paternal veto to abortion.

3. By dubious design or inadvertence this Court has decreed through its abortion decisions a newly established right for a woman but none for a man. A woman is granted absolute right under these decis-

ions to either give life or to abort a potential child. She is in effect given unilateral freedom to determine life itself. According to Roe vs Wade she is controller of life. A fortiori a woman who is controller of life can claim that life, and if she is the possessor of life she must be responsible for the complete material support of life. A woman's unilateral right to abort has established a new condition in marriage which Americans had not accepted prior to Roe vs Wade.

4. It is unconstitutional even for the Supreme Court to regulate marriage because such power violates the Tenth Amendment which reserves these powers for the state. Roe vs Wade is also an exercise which violates the Fourteenth Amendment because the Roe decision denies men in marriage equal protection.

5. When it extrapolated a right of priv-

acy for women this Court failed to grant male partners in marriage an equivalent right. Because Roe vs Wade granted women absolute right to abort in marriage it is reasonable to expect fathers now have the right to be relieved of obligatory child support. As Roe vs Wade abolished state abortion laws so should out-moded laws on obligatory paternal child support be abolished. Consequences to the abolishment of child support laws nationwide would be no more divisive than those resulting from Roe vs Wade. This Court owes it to men as fathers, and otherwise, to remove involuntary child support requirements.

6. This Court has also violated the principle of separation of powers in American government. Functioning as a legislative action affecting marriage, Roe vs Wade is usurpation of legislative power residing properly in the Congress on the

basis of Article 1, Section 1.

7. As Miss Roe invoked several amendments of the Constitution to evoke supportive judicial interpretations under due process and equal protection, plus the judicial synthesis of "right of privacy" in order to justify abortion for all women, in like manner the petitioner seeks judicial interpretation, consistent with its own *Roe vs Wade*, to remove mandatory child support obligations for men. Injustices to men continue to flourish nationwide in American courts over child custody, support and visitation.

8. The failure of *Roe vs Wade* to grant equal, reciprocal rights to fathers has caused enormous personal injury to the petitioner, to Five Children genetically related to him and to their mother. The confusing ambivalence of legal rights and responsibilities of each has been unbearable for ten years.

VI. JURISDICTION BELOW

The District and Circuit Courts have evaded jurisdiction of this federal issue on the basis of its inferior position to the highest court of the land.

VII. REASONS FOR GRANTING THE WRIT

1. Because the lower courts do not have authority to overrule the Supreme Court, this Court must consider the valid arguments of the petitioner.

2. Because Roe vs Wade deals with such a serious issue and because a writ of certiorari is reserved for special and important reasons the writ should be granted.

VIII. CONCLUSION

Wherefore, the petitioner requests this Court to recognize the inequities created by the imperfect Roe vs Wade ruling. The petitioner requests that this Court accept the rationale that its action in Roe vs Wade, and abortion decisions relying on Roe vs Wade, are unconstitutional infringements on the rights of states to define the conditions of marriage and to recognize its infringement on the responsibilities of the legislative branch of government to establish laws governing abortion and marriage.

The petitioner requests this Court to reverse Roe vs Wade because of its imperfection denying men an equal reciprocal right in and out of marriage. Or, in the alternative, to perfect Roe vs Wade by obligating women to total responsibility to unilaterally support their children.

The petitioner requests this Court to

grant just compensation to the Five Children, their mother and to himself for their suffering directly and indirectly related to the imperfection of Roe vs Wade.

CERTIFICATE OF SERVICE

I hereby certify that three true and correct copies of the foregoing PETITION FOR WRIT OF CERTIORARI were served upon the defendants' counsel Albert W. Schollaert, Assistant U.S. Attorney at the following address:

Albert W. Schollaert
Assistant U.S. Attorney
U.S. Department of Justice
Western District of Pennsylvania
Pittsburgh, Pa. 15219

and to:

William French Smith
Attorney General of the
United States
Main Justice Building, Rm 5614
United States Department
of Justice
Washington, D.C.

Rex E. Lee
Solicitor General of the
United States
Main Justice Building, Rm 5614
United States Department of
Justice
Washington, D.C.

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App. A-1

GRANTING DEFENDANTS' MOTION FOR SUMMARY JUDGMENT in the United States District Court for the Western District of Pennsylvania, Cyril E. Sagan, Plaintiff v. U.S. Supreme Court and U.S. Government, Defendants, Civil Action No. 82-2058, dated December 17, 1982, signed by Judge Paul A. Simmons.

And now, this 17th day of December, 1982, this Court, after hearing and argument and for the sake of the Governments' Motion, admitting all of the factual allegations of the Plaintiff's Complaint as being undisputed and true, the Defendants' Motion for Summary Judgment is hereby granted for the reason that the Complaint is frivolous and/or is no bonafide case and/or controversy between the Plaintiff, Cyril Es. Sagan and the Defendants, U.S. Supreme Court and U.S. Government.

/S/ Paul A. Simmons
United States District Court

App. B-1

JUDGMENT ORDER in the United States Court of Appeals for the Third Circuit, Cyril E. Sagan, Plaintiff v. U.S. Supreme Court and U.S. Government, Defendants, No. 83-5047 (D.C. Civil No. 82-2058), dated June 28, 1983, signed by Judge Gibbons.

Cyril E. Sagan appeals from summary judgment in favor of defendants in his civil action against the United States Supreme Court and the United States Government. We find no material issues of fact and no legal error.

It is ordered and adjudged that the judgment of the district court is affirmed. Costs are taxed in favor of appellees.

/S/ John J. Gibbons
Circuit Judge

CONSTITUTIONAL AND UNITED STATES
SUPREME COURT PROVISIONS

A. CONSTITUTIONAL PROVISIONS

1. Article I, Section 1:

"All legislative powers herein granted shall be vested in a Congress of the United States, which shall consist of a Senate and House of Representatives."

2. Article III, Section 2, Clause 1:

"The judicial power shall extend to all cases, in law and equity, arising under this Constitution, the laws of the United States, and treaties made, or which shall be made, under their authority... to controversies to which the United States shall be a party..."

3. Amendment X

"The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

B. SUPREME COURT DECISION

1. Roe vs Wade, 410 US 113, 35, L Ed 2d 147, 93 S Ct 705 (1966). Footnote of Justice Blackmun's opinion:

App. C-2

"Neither in this opinion..., do we discuss the father's rights, if any exist in the constitutional context, in the abortion decision." Footnote 67.